

REMARKS

By the above amendment, which accompanies the RCE and which is presented in light of the Decision on Appeal dated February 9, 2005, claims 1 - 6, 12 and 14 have been canceled without prejudice or disclaimer of the subject matter thereof, claims 7 and 13 have been amended to further define features of the present invention, as will be discussed below, based upon the Decision on Appeal, and new claims 15 - 27 have been added wherein independent claims 19 and 23 are directed to the apparatus and method of the present invention utilizing terminology as utilized in the other claims of this application, and independent claim 27 is directed to a computer-readable program encoded in a memory medium and again, reciting features corresponding to that recited in other claims of this application.

At the outset, in the Decision on Appeal, the Board determined that the limitation in the claims that "copying once was permitted" was subject to different interpretations, and that applicants intended the interpretation of "copying was permitted one time and no more". However, the Board utilized another interpretation so as to enable application of the Linnartz patent. By the present amendment, each of the independent claims 7, 13, 19, 23 and 27 of this application now utilize the recitation that "copying once was permitted at one time and no more" in accordance with the description in the specification, and applicants submit that Linnartz does not disclose or teach such feature, as recognized by the Board.

Further, with respect to the feature concerning the type of medium the Board noted that none of the independent claims require "detecting a medium to dedicated to reproduction" with the Board noting that if there was a step of detecting and taking an action in response to the detecting there would be a problem in the rejection because the stopping in Linnartz is not based on detecting the type of media. By the

present amendment, each of the independent claims now recite the feature of a medium detector which detects whether a medium is a medium dedicated to reproduction, or a determining unit which determines whether the medium to be reproduced is a medium dedicated to reproduction or a recordable medium, or determining whether the medium to be reproduced is a medium dedicated to reproduction or a recordable medium or that an action is taken in response to occurrence of both, as recited in claim 7, for example, (1) the error-corrected data was reproduced from the medium dedicated to reproduction based upon detection by the medium detector and (2) that the reproduced information concerning copying consents toward any temporal store indicates that copying once was permitted at one time and no more. It is noted that the other independent claims of this application recite substantially similar features with an action being taken in response to occurrence of both (1) and (2), and as recognized by the Board, Linnartz fails to provide such claimed features. In this regard, it is noted that while previously the claims utilize terminology of "if", by the present amendment, in both the apparatus and method claims as well as the computer-readable program claim, it is clearly recited that an action occurs in response to occurrence of both (1) and (2), which recite determination of copying once was permitted at one time and no more and an indication that the medium is dedicated to reproduction. Thus, applicants submit that the independent and dependent claims patentably distinguish over Linnartz in the sense of 35 USC 102 and 35 USC 103 and should be considered allowable thereover.

With respect to the combination of Suzuki et al and Linnartz, it is readily apparent that Suzuki et al fails to overcome the deficiencies of Linnartz, as pointed out above, and this combination also fails in the sense of 35 USC 103. Accordingly,

applicants submit that all claims patentably distinguish over this proposed combination of references in the sense of 35 USC 103 and all claims should be considered allowable at this time.

In view of the above amendments and remarks, applicants submit that all claims present in this application recite features not disclosed or taught in the cited art and all claims should be considered allowable thereof. Accordingly, issuance of an action of favorable nature is courteously solicited.

To the extent necessary, applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to the deposit account of Antonelli, Terry, Stout & Kraus, LLP, Deposit Account No. 01-2135 (Case: 500.37136CX1), and please credit any excess fees to such deposit account.

Respectfully submitted,

ANTONELLI, TERRY, STOUT & KRAUS, LLP



Melvin Kraus
Registration No. 22,466

MK/jla
(703) 312-6600